



OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

FACT SHEET

HELENA FILINGS IN MUNICIPAL AND JUSTICE COURTS TO HALT NEW CASE INFLOWS

Updated: October 11, 2013

1. OPD has been overburdened with cases for years.
2. Resources to handle caseload increases have not kept up with the inflow.
3. During FY 12 OPD experienced a very large increase of nearly 12% or 3,200 more new cases.
4. FY 13 saw another 3.5% increase, or another 1,100 cases on top of the 12% noted above.
5. On February 15, 2013 the Montana Public Defender Commission adopted a Resolution to allow the Chief Public Defender to take any actions necessary to limit acceptance of new case assignments when resources were not available to work on them in an appropriate and ethical manner.
6. This Resolution was provided to all legislators sitting in the House and Senate during the 2013 session and their staff; to the Governor and some of his staff; to the Chief Justice and other Justices; to interested parties; and offered to the news media via news links and direct mailings.
7. The Chief Public Defender will act to limit new case assignments as needed on a region-by-region basis rather than system-wide.
8. Region 4 (Helena) was especially hard hit with a large number of new cases combined with excessive staff and attorney turnover during FY 12 and into FY 13.
9. The Chief Public Defender and the Helena Regional Deputy have been working on a plan to align caseloads with resources as required by the Resolution for several months.
10. Due to the nature of state government and OPD's historically low salaries, Region 4 has had difficulty recruiting and retaining both staff and contract attorneys as well as legal support.
11. Chief Public Defender Hooks filed motions and briefs in two Helena courts on 9/5/13 to rescind OPD's appointment to specific cases and to allow OPD to decline appointments for future cases consistent with its ethical, constitutional and statutory obligations.
 - a. One case was in Helena Municipal Court for defendant Mark Allen Lee.
 - b. The other case was in Helena Justice Court for defendant David Philips.
12. Chief Hooks requests that each court hold a hearing and accept evidence and testimony to address Region 4's case overload.
13. OPD assumes that hearings will be granted and that testimony will be taken.
14. The hearing in front of both courts has not yet been set.
15. Until the hearings have been held and the courts have made their rulings, Region 4 will continue to work cases assigned by these courts and continue to be overburdened and inefficient.

16. If the motion is approved, the court would not assign new cases to OPD until the court is advised that OPD has resources available to take more inflow.
17. If OPD is not accepting appointments, where will the cases go? The courts could:
 - a. assign them to other attorneys in the community;
 - b. handle the case without an attorney present, which would be a blatant violation of constitutional rights;
 - c. dismiss the charges.
18. If the court assigns cases to private counsel, who would pay those attorneys? There could be several options:
 - a. The attorney may work free of charge (pro bono);
 - b. The attorney might bill the state, the county or the city;
 - c. The attorney might bill OPD.
19. If the motion is denied OPD will consider filing a writ with a higher court.